

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

Case No. 22-20184

Honorable Laurie J. Michelson

vs.

D-2 John David,

Defendant.

Stipulated Order Imposing Forfeiture Money Judgment

Plaintiff, by and through its undersigned attorneys, together with the defendant John David (“defendant”), by and through his attorney, Robert Morgan, submit this Stipulated Order of Imposing Forfeiture Money Judgment for immediate entry, and stipulate and agree to the following.

Sentencing is scheduled for this matter on Monday, August 14, 2023. The parties agree sentencing should proceed as scheduled to resolve all sentencing matters before the Court *except* for the limited issue of determining the dollar amount of the forfeiture money judgment to be imposed against the defendant. The parties stipulate the sentencing proceedings be continued solely on this forfeiture issue so that defendant and his counsel have an opportunity to present evidence to the government of the net proceeds obtained by the defendant as a result of his

offenses. Pursuant to 18 U.S.C. § 981(a)(2)(B), the defendant shoulders this burden of proof:

In cases involving lawful goods or lawful services that are sold or provided in an illegal manner, the term “proceeds” means the amount of money acquired through the illegal transactions resulting in the forfeiture, less the direct costs incurred in providing the goods or services. The claimant shall have the burden of proof with respect to the issue of direct costs. The direct costs shall not include any part of the overhead expenses of the entity providing the goods or services, or any part of the income taxes paid by the entity.

The parties believe a 45-day continuance is sufficient to allow for an opportunity to resolve the forfeiture by agreement. In the alternative, the parties will be prepared to present their arguments to the Court on the continued sentencing date to be set. The parties stipulate that the Judgment and Commitment Order be held until the forfeiture issue is resolved. The parties respectfully request that all sentencing matters proceed as scheduled on Monday, August 14, 2023.

In the interim, the parties stipulate that a forfeiture money judgment be entered pending the final amount to be determined. This is consistent with the parties’ Rule 11 plea agreement.

On or about April 13, 2023, the defendant pleaded guilty to Count One and Count Seven of the Superseding Indictment. (ECF No. 29). In the defendant’s Rule 11 Plea Agreement, the defendant agreed to forfeit to the United States, pursuant to 18 U.S.C. §§ 981(a)(1)(C) together with 28 U.S.C. § 2461, without contest, his interest in all property, real and personal, which constitutes or is derived, directly

or indirectly, from gross proceeds traceable to defendant's conspiracy to commit Federal Program Bribery in violation of 18 U.S.C. § 371 and Bribery Concerning Programs Receiving Federal Funds in violation of 18 U.S.C. § 666 (a)(2) as charged in Count One and Count Seven of the Superseding Indictment.

In the defendant's Rule 11 Plea Agreement, the defendant agreed to the entry of a personal forfeiture money judgment against him in favor of the United States representing the total amount of proceeds the defendant obtained as a result of his violation of Count One and Count Seven of the Superseding Indictment. (ECF No. 41, PageID.169).

The defendant acknowledges that the forfeiture money judgment may be satisfied, to whatever extent possible, from any property owned or under the control of the defendant. The defendant explicitly agrees to the forfeiture of any assets he has now, or may later acquire, as substitute assets under 21 U.S.C. § 853(p)(2) and waives and relinquishes his right to oppose the forfeiture of substitute assets under 21 U.S.C. § 853(p)(1) or otherwise. (ECF No. 41, PageID.169).

Defendant also agreed in his Rule 11 agreement to the prompt entry of an Order of Forfeiture incorporating the forfeiture money judgement.

Based upon the defendant's guilty plea to Count One and Count Seven of the Superseding Indictment, a violation of 18 U.S.C. § 371 and 18 U.S.C. § 666 (a)(2),

this Stipulation, and other information in the record, and pursuant to 18 U.S.C. § 981(a)(1)(C) together with 28 U.S.C. § 2461(c),

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. A forfeiture money judgment is granted and entered against defendant in favor of the United States in an amount to be determined by the Court at a continued sentencing date to be set by the Court, or as stipulated by the parties. The forfeiture money judgment amount shall be equal to the proceeds obtained by the defendant as a result of his violation of Counts 1 and 7 of the Superseding Indictment.

2. The money judgment may be satisfied, to whatever extent possible, from any property owned or under the control of the defendant. To satisfy the money judgment, any assets that the defendant has now, or may later acquire, may be forfeited as substitute assets under 21 U.S.C. § 853(p)(2).

3. The Money Judgment shall be made part of the defendant's sentence and included in defendant's Judgment. An amended order of forfeiture shall be entered to specify the forfeiture money judgment amount determined by the Court at sentencing.

4. The Court retains jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e) to allow forfeiture of substitute assets to satisfy the Money Judgment.

Approved as to form and substance:

Dawn N. Ison
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Dated: August 11, 2023

s/ Robert Morgan (w/ consent)
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Dated: August 11, 2023

IT IS SO ORDERED.

Dated: August 13, 2023

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE